

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

IN RE: **Randy Wayne Essex**  
**Dawn Waynenette Essex**  
Debtor(s)

Case No.

Chapter 13 Proceeding

☐ **AMENDED**    ☐ **MODIFIED**

**DEBTOR(S)' CHAPTER 13 PLAN**

**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

*Creditors are hereby notified that the following Plan may be amended at any time before confirmation. Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments, and estimates of the allowed claims may also change. The following information advises creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the Office of the United States Bankruptcy Clerk in El Paso or Waco, Texas. Local Bankruptcy Rules and Standing Orders on procedures are available at the Clerk's Office and online at [www.txwb.uscourts.gov](http://www.txwb.uscourts.gov).*

*Use of the singular word "Debtor" in this Plan includes the plural where appropriate.*

**Plan Summary**

- A. The Debtor's Plan Payment will be Variable Payments, paid by ☒ Pay Order or ☐ Direct Pay for 60 months. The gross amount to be paid into the plan is \$51,945.00.
- B. The Plan proposes to pay all allowed priority claims in full, all secured claims to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI below, and approximately 78% of each unsecured allowed claim.

THIS PLAN DOES NOT ALLOW CLAIMS. YOU MUST FILE A PROOF OF CLAIM BY THE APPLICABLE DEADLINE TO RECEIVE DISTRIBUTIONS UNDER ANY PLAN THAT MAY BE CONFIRMED. CREDITORS ARE REFERRED TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE, THE LOCAL BANKRUPTCY RULES FOR THE WESTERN DISTRICT OF TEXAS, AND THE APPLICABLE STANDING ORDER RELATING TO CHAPTER 13 CASE ADMINISTRATION FOR THIS DIVISION, FOR INFORMATION ON THESE AND OTHER DEADLINES.

- C. The value of the Debtor's non-exempt assets is \$0.00.
- D. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in Section VI(1), set forth below.

**Plan Provisions**

**I. Vesting of Estate Property**

- ☒ Upon confirmation of the Plan, all property of the estate shall vest in the Debtor and shall not remain as property of the estate.
- ☐ Upon confirmation of the Plan, all property of the estate shall not vest in the Debtor, but shall remain as property of the estate.
- ☐ Other (describe):

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*Continuation Sheet # 1*

**II. Pre-Confirmation Disbursements**

In accordance with the applicable Standing Order Relating to Chapter 13 Case Administration, the Debtor requests and consents to disbursement by the Chapter 13 Trustee of payments prior to confirmation of the Plan to evidence the Debtor's good faith, promote successful completion of the case, and to provide adequate protection to secured creditors. The Debtor shall remit such payments to the Trustee commencing 15 days after the filing of the petition. Provided all conditions for disbursement are met and unless otherwise ordered by the Court, the Trustee shall begin disbursing to creditors as provided below, on the first regularly scheduled disbursement after 30 days after the the petition is filed. Payments under this paragraph will cease upon confirmation of the Plan.

Creditor/Collateral	Pre-Confirmation Payment Amount	Other Treatment Remarks
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**III. Executory Contracts/Unexpired Leases/Contracts for Deed**

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to assume the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Creditor Name	Description of Contract	Election	In Default
R&R Gym	Club Fees Contract ends March 2012	Assumed	No

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor hereby elects to reject the following executory contracts, unexpired leases, and/or contracts for deed, if any:

Creditor Name	Description of Contract	Election	In Default
(None)			

**IV. Motion to Value Collateral Pursuant to 11 U.S.C. § 506**

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the amount of the claim, whichever amount is provided for in Section VI(2), hereof, plus interest thereon at the rate specified in this Plan. Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section VI(2)(F).

The Debtor(s) move(s) to value the collateral described below in the amounts indicated. The values as stated below represent the replacement values of the assets held for collateral, as required under Section 506(a)(2). Objections to valuation of collateral proposed by this Motion and Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely response or objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan.

Creditor / Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
Bac Home Loans Servi 225 CR 1630	\$10,220.00	\$10,220.00	Pro-Rata	0%	\$10,220.00	

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*Continuation Sheet # 2*

*"I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on*  
**July 11, 2011** *."*

/s/ Randy Wayne Essex  
Debtor

/s/ Dawn Waynenette Essex  
Joint Debtor

**V. Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)**

The Bankruptcy Code allows certain liens to be avoided. If a lien is avoided, the claim will not be treated as a secured claim but as an unsecured claim under Section VI(2)(F).

The Debtor moves to avoid the following liens that impair exemptions. Objections to lien avoidance as proposed in this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property that the lien impairs and the basis of the lien--e.g., judicial lien, nonpurchase-money security interest, etc.)

<b>Creditor / Property subject to lien</b>	<b>Amount of Lien to be Avoided</b>	<b>Remarks</b>
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**VI. Specific Treatment for Payment of Allowed Claims**

**1. PAYMENTS TO BE MADE BY THE DEBTOR DIRECTLY TO CREDITORS, INCLUDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS**

**A.** Debtor(s) shall pay the following creditors directly. Creditors with claims based on a post-petition domestic support obligation ("DSO"), including all governmental units to which a DSO claim has been assigned, or is owed, or that may otherwise recover a DSO claim, **MUST** be paid directly. Minors should be identified by their initials only. If no DSO creditor is listed, the Debtor represents he/she has no domestic support obligation.

All direct payments listed below shall be made in addition to the Plan payments made by Debtor to the Chapter 13 Trustee as herein set forth. Secured creditors who are paid directly shall retain their liens, and the Debtor(s) shall maintain insurance on the collateral, in accordance with the terms of the documents creating the lien on the collateral.

<b>Creditor / Collateral, if any (including the name of each DSO creditor)</b>	<b>Remarks</b>	<b>Debt Amount</b>	<b>Payment Amount/Interval</b>
ALLY 2004 Chevy Tahoe		\$628.07	\$555.72
Attorney General Child Support		\$12.00	\$499.00
Bac Home Loans Servi 225 CR 1630		\$97,203.00	\$725.00

**B.** Debtor surrenders the following collateral. Confirmation of the Plan shall operate to lift the automatic stay provided by 11 U.S.C. § 362(a) with respect to the collateral listed, and any unsecured deficiency claim may be filed in accordance with the procedures set forth in the Standing Order Relating to Chapter 13 Case Administration for this Division.

<b>Creditor/Collateral</b>	<b>Collateral to Be Surrendered</b>
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*Continuation Sheet # 3*

**2. PAYMENTS TO BE MADE BY TRUSTEE TO CREDITORS**

**A. Administrative Expenses**

Administrative Expenses shall include the Trustee's commission and debtor's attorney's fees. The Trustee shall receive up to 10% of all sums disbursed, except on any funds returned to the Debtor. No fees or expenses of counsel for the debtor(s) may be paid until the filing fee is paid in full, and any fees and expenses that are allowed in addition to the fees and expenses originally agreed to be paid, may be paid only after all prior allowed fees and expenses have been paid.

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured	Remarks
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James C. Herring	\$1,100.00	Along With	
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**B. Priority Claims, Including Domestic Support Obligation Arrearage Claims**

Creditor	Estimated Amount of Debt	Payment Method: before secured creditors, after secured creditors, or along with secured	Remarks
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Internal Revenue Service	\$1,087.53	Along With	
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**C. Arrearage Claims**

Creditor / Collateral	Estimated Claim	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks
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Bac Home Loans Servi 225 CR 1630	\$10,220.00	\$10,220.00	Pro-Rata	0%	\$10,220.00	
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**D. Cure Claims on Assumed Contracts, Leases, and Contracts for Deed**

Creditor/Subject Property, if any	Estimated Amount of Cure Claim	Monthly Payment or Method of Disbursement	Remarks
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**E. Secured Creditors**

Secured creditors shall retain their liens on the collateral that is security for their claims until the earlier of the date the underlying debt, as determined under non-bankruptcy law, has been paid in full, or the date of discharge under 11 U.S.C. § 1328. Therefore, if the debtor's case is dismissed or converted without completing of all Plan payments, the liens shall be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

Creditor/Collateral	Estimated Claim	Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Pay	Other Treatment/Remarks (specifically note if claim amount to be paid although greater than value of collateral)
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Capital One Auto Finance 2007 Chevy Truck	\$12,657.00	\$12,487.50	\$237.09	5.25%	\$14,225.23	
HSBC Yamaha 4 Wheeler	\$1,827.00	\$3,500.00	\$34.69	5.25%	\$2,081.19	

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*Continuation Sheet # 4*

**F.** General Unsecured Creditors (including claims from rejection of contracts, leases and contracts for deed).  
*Describe treatment for the class of general unsecured creditors.*

General Unsecured Creditors will receive approximately 78% of their allowed claims.

**Totals:**

Administrative Claims	<u>\$1,100.00</u>
Priority Claims	<u>\$1,087.53</u>
Arrearage Claims	<u>\$10,220.00</u>
Cure Claims	<u>\$0.00</u>
Secured Claims	<u>\$14,314.50</u>
Unsecured Claims	<u>\$23,084.50</u>

**VII. Supplemental Plan Provisions**

The following are the Supplemental Plan Provisions:

**Step Fixed Payments Are Designated in This Plan**

Under 11 U.S.C. Sec. 1325(a)(5)(B)(iii), each secured creditor is allowed to receive a fixed payment for the duration of the plan. This plan makes provision for step fixed payments. Unless an objection is filed by the secured creditor(s) regarding the variable payments, the variable payments will be deemed acceptable to that secured creditor for the duration of the plan.

Respectfully submitted this date: 7/11/2011.

**/s/ Evan Simpson/Chance McGhee**

Evan Simpson/Chance McGhee  
6801 Sanger Ave., Ste. 190  
Waco, TX 76710  
Phone: (254) 399-9977 / Fax: (254) 399-9909  
(Attorney for Debtor)

**/s/ Randy Wayne Essex**

Randy Wayne Essex  
225 CR 1630  
Clifton, TX 76634  
(Debtor)

**/s/ Dawn Waynenette Essex**

Dawn Waynenette Essex  
225 CR 1630  
Clifton, TX 76634  
(Joint Debtor)

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**EXHIBIT "B" - VARIABLE PLAN PAYMENTS**

**PROPOSED PLAN OF REPAYMENT (VARIABLE PAYMENTS INTO THE PLAN)**

<u>Month</u>	<u>Payment</u>	<u>Month</u>	<u>Payment</u>	<u>Month</u>	<u>Payment</u>
1	\$320.00	21	\$875.00	41	\$875.00
2	\$875.00	22	\$875.00	42	\$875.00
3	\$875.00	23	\$875.00	43	\$875.00
4	\$875.00	24	\$875.00	44	\$875.00
5	\$875.00	25	\$875.00	45	\$875.00
6	\$875.00	26	\$875.00	46	\$875.00
7	\$875.00	27	\$875.00	47	\$875.00
8	\$875.00	28	\$875.00	48	\$875.00
9	\$875.00	29	\$875.00	49	\$875.00
10	\$875.00	30	\$875.00	50	\$875.00
11	\$875.00	31	\$875.00	51	\$875.00
12	\$875.00	32	\$875.00	52	\$875.00
13	\$875.00	33	\$875.00	53	\$875.00
14	\$875.00	34	\$875.00	54	\$875.00
15	\$875.00	35	\$875.00	55	\$875.00
16	\$875.00	36	\$875.00	56	\$875.00
17	\$875.00	37	\$875.00	57	\$875.00
18	\$875.00	38	\$875.00	58	\$875.00
19	\$875.00	39	\$875.00	59	\$875.00
20	\$875.00	40	\$875.00	60	\$875.00

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*Joint Debtor*

CHAPTER **13**

**CERTIFICATE OF SERVICE**

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I, the undersigned, hereby certify that on July 11, 2011, a copy of the attached Chapter 13 Plan, with any attachments, was served on each party in interest listed below, by placing each copy in an envelope properly addressed, postage fully prepaid in compliance with Local Rule 9013 (g).

**/s/ Evan Simpson/Chance McGhee**

Evan Simpson/Chance McGhee  
Bar ID: 24060612/00791226  
James C. Herring & Assoc.  
6801 Sanger Ave., Ste. 190  
Waco, TX 76710  
(254) 399-9977

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ALLY  
xxxious  
PO Box 78369  
Phoenix, AZ 85062-8369

Bac Home Loans Servi  
xxxxx6959  
450 American St  
Simi Valley, CA 93065

Discover Fin  
xxxxxxxxxxxx8074  
PO Box 6103  
Carol Stream, IL 60197

Angela Snyder  
P.O. Box 471  
Sterling, OK 73657

Capital One Auto Finance  
xxxxxxxxxxxx1001  
3905 N Dallas Pkwy  
Plano, TX 75093

Financial Control Svc  
xxxxxxxxxxxx6215  
6801 Sanger Ave Ste 195  
Waco, TX 76710

Attorney General Child Support  
xxxxxx9186  
Attn: Bankruptcy  
PO Box 12017 Credit Group  
Austin, TX 78711

Capital One, N.A.  
xxxxxxxxxxxx2719  
Capital One Bank (USA) N.A.  
PO Box 30285  
Salt Lake City, UT 84130

Financial Control Svc  
xxxxxxxxxxxx2688  
6801 Sanger Ave Ste 195  
Waco, TX 76710

Bac Home Loans Servi  
xxxxx6959  
450 American St  
Simi Valley, CA 93065

Chase  
xxxxxxxxxxxx9436  
Po Box 15298  
Wilmington, DE 19850

Financial Control Svc  
xxxxxxxxxxxx9250  
6801 Sanger Ave Ste 195  
Waco, TX 76710

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*Joint Debtor*

CHAPTER **13**

**CERTIFICATE OF SERVICE**  
(Continuation Sheet #1)

HSBC  
xxxxxxxxxx0234  
HSBC Retail Services/Attn: Bankruptcy  
D  
PO Box 5263  
Carol Stream, IL 60197

Metabnk/fhut  
xxxx9879  
6250 Ridgewood Plaza  
Saint Cloud, MN 56303

Hsbc Bank  
xxxxxxxxxx1362  
Po Box 5253  
Carol Stream, IL 60197

Randy Wayne Essex  
225 CR 1630  
Clifton, TX 76634

Internal Revenue Service  
xxxious  
Special Procedures Branch  
300 E. 8th, Stop 5022AUS  
Austin, TX 78701

Seventh Avenue  
xxxxxxxxxx857O  
1112 7th Ave  
Monroe, WI 53566

Internal Revenue Service  
P.O. Box 7346  
Philadelphia, PA 19101-7346

Seventh Avenue  
xxxxxxxxxx257O  
1112 7th Ave  
Monroe, WI 53566

Jefferson Capital Syst  
xxxxxxxxxx0003  
16 Mcleland Rd  
Saint Cloud, MN 56303

Through The Country Do  
xxxxxxxxxx853O  
1112 7th Ave  
Monroe, WI 53566

Lvnv Funding Llc  
xxxxxxxxxx2453  
Po Box 740281  
Houston, TX 77274

Lvnv Funding Llc  
xxxxxxxxxx3905  
Po Box 740281  
Houston, TX 77274